

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHAEL STANLEY MORRIS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. 2:07-cv-1181

CRIM. NO. 2:03-cr-002

JUDGE GRAHAM

MAGISTRATE JUDGE ABEL

OPINION AND ORDER

On March 3, 2009, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. §2255 be dismissed. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. For the reasons that follow, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

Petitioner objects to the Magistrate Judge's recommendation of dismissal of his claims on the merits. Petitioner again asserts that he was denied the effective assistance of appellate counsel because his attorney did not raise on appeal a claim that the trial transcripts had intentionally been altered "to cover up appealable issues that occurred during trial" or to "take any measure in fact finding" this claim. *Objections*, at 2. Petitioner has attached to his Objections those portions of the trial transcript which he contends were inaccurately transcribed. He alleges that:

[o]n page 238 of the trial transcript at line 12-25 and page 239 at line 1-10, should have been before the cross-examination of

Eddie Nelson on page 269 of transcript. The petitioner did not ask for a side bar to request statements from a police officer. The petitioner asked for a side bar to discuss having Eddie Nelson[']s testimony restricted from the record.

Trial transcript pages 324, 325, and 326 are pages of petitioner questioning Det. Pat Dorn about eye witness. During this stage at trial the petitioner was not aware of multiple witnesses, which could be discerned by reading the aforementioned pages. On page 326, at line 10, is not an accurate account of what was said after Det. Pat Dorn answer "Yes, sir." After that answer, the petitioner immediately asked, "How come I don't have these reports," in which at that time the trial Judge asked for a fifteen minute recess.

Objections, at 3. However, petitioner does not indicate, and this Court is unable to discern from the record, what potentially meritorious issues could have been raised on appeal in view of the allegedly altered portions of the trial transcript referred to above that were not, or state in what manner he was prejudiced thereby.

Pursuant to 28 U.S.C. §636(b), this Court has conducted a de novo review of the Magistrate Judge's *Report and Recommendation*. For the foregoing reasons, and for reasons detailed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

It is so ORDERED.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: October 29, 2009